

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

RICHARD BACA,

Petitioner,

v.

No. CV 16-00718 WPJ/CG

No. CR 06-00760 WJ

UNITED STATES OF AMERICA,

Respondent.

PROPOSED FINDINGS AND RECOMMENDED DISPOSITION

THIS MATTER is before the Court upon Petitioner *Richard Baca*'[s] *Motion to Correct Sentence Pursuant to 28 U.S.C. § 2255*, (Doc. 1), filed June 27, 2016; and the *United States' Response to Defendant's Motion to Correct Sentence Pursuant to § 2255*, (Doc. 8), filed August 23, 2016. United States District Judge William P. Johnson referred this case to Magistrate Judge Carmen E. Garza to perform legal analysis and recommend an ultimate disposition of the case. (Doc. 2). Because Respondent agrees that Petitioner was incorrectly sentenced and asks the Court to vacate the sentence and schedule a resentencing in this matter, (Doc. 8 at 1), the Court **RECOMMENDS** that Petitioner's Motion be **GRANTED**, his sentence be **VACATED**, and he be **RESENTENCED**.

IT IS THEREFORE RECOMMENDED that Petitioner *Richard Baca*'[s] *Motion to Correct Sentence Pursuant to 28 U.S.C. § 2255*, (Doc. 1), be **GRANTED**, his sentence be **VACATED**, and he be **RESENTENCED**.

IT IS FINALLY ORDERED that if the parties are willing to waive the objections period set forth below, they should file a notice to that effect as soon as possible.

THE PARTIES ARE FURTHER NOTIFIED THAT WITHIN 14 DAYS OF SERVICE of a copy of these Proposed Findings and Recommended Disposition they may file written objections with the Clerk of the District Court pursuant to 28 U.S.C. § 636(b)(1). **A party must file any objections with the Clerk of the District Court within the fourteen-day period if that party wants to have appellate review of the proposed findings and recommended disposition. If no objections are filed, no appellate review will be allowed.**

A handwritten signature in black ink, appearing to read 'Carmen E. Garza', written over a horizontal line.

THE HONORABLE CARMEN E. GARZA
UNITED STATES MAGISTRATE JUDGE